

Exhibit 323

(Filed Under Seal)

* H I G H L Y C O N F I D E N T I A L *

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

Civil Action File No. 14-CV-7473

-----x

THE PEOPLE OF THE STATE OF NEW YORK, by
and through ERIC T. SCHNEIDERMAN, Attorney
General of the State of New York,

Plaintiff,

- against -

ACTAVIS, PLC and FOREST LABORATORIES, LLC,

Defendants.

-----x

November 5, 2014

9:38 a.m.

Videotaped Deposition of BARRY
REISBERG, pursuant to Notice, held at the
offices of White & Case LLP, 1155 Avenue
of the Americas, New York, New York,
before Jineen Pavesi, a Registered
Professional Reporter, Registered Merit
Reporter, Certified Realtime Reporter and
Notary Public of the State of New York.

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<p style="text-align: right;">162</p> <p>1 REISBERG - HIGHLY CONFIDENTIAL</p> <p>2 people, just the way people drop out</p> <p>3 because of the side effects of placebo,</p> <p>4 and more from placebo in my study than</p> <p>5 from medication, the same thing can</p> <p>6 happen, I'm sure it will happen, that some</p> <p>7 people will think that the two is better</p> <p>8 than one, even though -- from a certain</p> <p>9 perspective two is better than one, but in</p> <p>10 actuality in this case two is not better</p> <p>11 than one.</p> <p>12 So I as a doctor, to answer</p> <p>13 your question, would endeavor first to</p> <p>14 take a rational approach and to try to</p> <p>15 explain the risks and benefits and the</p> <p>16 benefits to the patient and whoever the</p> <p>17 person is, the caregiver, for example, why</p> <p>18 one is actually better than two here.</p> <p>19 But at a certain point, one</p> <p>20 wants to make the patient -- you have two</p> <p>21 patients, one is the person with</p> <p>22 Alzheimer's disease, the other is the</p> <p>23 primary caregiver, if you will, and you</p> <p>24 need to make the primary caregiver happy,</p> <p>25 you need to make the person with</p>	<p style="text-align: right;">163</p> <p>1 REISBERG - HIGHLY CONFIDENTIAL</p> <p>2 Alzheimer's disease all that they can be.</p> <p>3 So one can imagine such a</p> <p>4 situation.</p> <p>5 Q. And in that situation, even</p> <p>6 after you tried to explain things to the</p> <p>7 patient, if they insisted they wanted the</p> <p>8 twice-a-day formulation, would you</p> <p>9 prescribe it?</p> <p>10 MS. COLE: Objection.</p> <p>11 A. I would prescribe it, I would</p> <p>12 fill out the form, just the way I have</p> <p>13 been describing that I fill out the form</p> <p>14 for -- fill out the prescription for</p> <p>15 physical therapy and then I fill out the</p> <p>16 forms certifying subsequently that the</p> <p>17 person needed the physical therapy when</p> <p>18 they fax them to me and just the way I</p> <p>19 fill out forms, I have someone -- I have</p> <p>20 more elaborate forms that I fill out for</p> <p>21 my patients, I have someone who is in a</p> <p>22 kind of nursing facility and I have to</p> <p>23 fill out forms for that person in terms of</p> <p>24 not only doing everything I just said, but</p> <p>25 also in terms of the facility form, they</p>
<p style="text-align: right;">164</p> <p>1 REISBERG - HIGHLY CONFIDENTIAL</p> <p>2 want a separate form, not just everything</p> <p>3 that I just said, but in addition to that,</p> <p>4 a facility form, just the way I fill out</p> <p>5 other forms, right.</p> <p>6 Q. Doctor, it is your opinion that</p> <p>7 the Namenda instant-release formulation is</p> <p>8 remarkably safe and effective, I think you</p> <p>9 used that phrase?</p> <p>10 MS. COLE: Objection, misstates</p> <p>11 prior testimony, vague.</p> <p>12 A. Yes.</p> <p>13 Q. Business or financial reasons</p> <p>14 aside, can you think of any strictly</p> <p>15 medical reason to restrict the access,</p> <p>16 restrict patient access, to Namenda IR</p> <p>17 through the specialty pharmacy program?</p> <p>18 MS. COLE: Objection, vague,</p> <p>19 lacks foundation.</p> <p>20 A. Yes, as I have been saying,</p> <p>21 minimizing amounts of medication,</p> <p>22 maximizing compliance by minimizing the</p> <p>23 amount of medication, minimizing agitation</p> <p>24 which is associated with many, many</p> <p>25 different kinds of adverse outcomes, are</p>	<p style="text-align: right;">165</p> <p>1 REISBERG - HIGHLY CONFIDENTIAL</p> <p>2 medical goals and physicians need to</p> <p>3 pursue those goals under all</p> <p>4 circumstances, that's the job of medicine.</p> <p>5 And as I have been explaining,</p> <p>6 we have tried in many, many different</p> <p>7 ways, reaching out beyond what's</p> <p>8 considered the professional boundaries,</p> <p>9 speaking now of ourselves, myself and my</p> <p>10 collaborators, to maximize the person's</p> <p>11 capacities and health and well-being.</p> <p>12 But in medicine more generally</p> <p>13 we try to help our patients and those are</p> <p>14 the reasons why the extended-release</p> <p>15 medication is better than the IR or the</p> <p>16 instant-release medication.</p> <p>17 Q. But is that in itself a reason</p> <p>18 to restrict patient access to the IR</p> <p>19 formulation?</p> <p>20 MS. COLE: Objection, lack of</p> <p>21 foundation, vague, incomplete</p> <p>22 hypothetical.</p> <p>23 A. I believe, yes, in the same</p> <p>24 sense that I have been alluding to before.</p> <p>25 We don't make an Aricept</p>

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<p style="text-align: right;">166</p> <p>1 REISBERG - HIGHLY CONFIDENTIAL</p> <p>2 twice-a-day because it is not good for</p> <p>3 patients.</p> <p>4 Nobody moves into the</p> <p>5 marketplace with a twice-a-day formulation</p> <p>6 because it would be considered</p> <p>7 deleterious, it would simply be considered</p> <p>8 deleterious.</p> <p>9 Certainly medically, I don't</p> <p>10 speak for the FDA, but nobody is so</p> <p>11 foolhardy as to do that.</p> <p>12 Same thing for the Excelon</p> <p>13 Patch, nobody is trying to move into the</p> <p>14 marketplace with an Excelon patch that you</p> <p>15 have to give twice-a-day.</p> <p>16 So medically we try to do</p> <p>17 things that are advantageous for our</p> <p>18 patients and in this case, patients and</p> <p>19 caregivers, there is always a wider aspect</p> <p>20 to those statements.</p> <p>21 Q. Do you know whether a generic</p> <p>22 version of Namenda IR will become</p> <p>23 available?</p> <p>24 MS. COLE: Objection, vague,</p> <p>25 lack of foundation.</p>	<p style="text-align: right;">167</p> <p>1 REISBERG - HIGHLY CONFIDENTIAL</p> <p>2 A. I believe I do, I believe I do.</p> <p>3 Q. Do you have an idea as to when?</p> <p>4 MS. COLE: Objection, vague.</p> <p>5 A. I believe I do.</p> <p>6 Q. When would that be?</p> <p>7 MS. COLE: Objection, vague.</p> <p>8 A. I believe it would be</p> <p>9 approximately July of 2015, approximately</p> <p>10 July of 2015.</p> <p>11 Q. Do you recall how you obtained</p> <p>12 that information?</p> <p>13 A. I believe one source was your</p> <p>14 report.</p> <p>15 Q. By report, you mean the</p> <p>16 complaint maybe that was at the beginning</p> <p>17 of your materials considered?</p> <p>18 MS. COLE: Objection, vague.</p> <p>19 A. The attorney -- you're</p> <p>20 representing the Attorney General?</p> <p>21 Q. Correct.</p> <p>22 A. So I said your report in that</p> <p>23 context, so this was the report of the</p> <p>24 Attorney General that mentioned that.</p> <p>25 Q. So it wasn't from a generic</p>
<p style="text-align: right;">168</p> <p>1 REISBERG - HIGHLY CONFIDENTIAL</p> <p>2 drug company?</p> <p>3 MS. COLE: Objection, misstates</p> <p>4 prior testimony, lacks foundation, vague.</p> <p>5 A. Definitely not from a generic</p> <p>6 drug company.</p> <p>7 Q. Do you ever get information or</p> <p>8 marketing materials directly from generic</p> <p>9 drug companies?</p> <p>10 MS. COLE: Objection, vague,</p> <p>11 lacks foundation.</p> <p>12 A. It is a very comprehensive</p> <p>13 statement.</p> <p>14 Let me say that I don't focus</p> <p>15 my attention on that issue, I haven't</p> <p>16 researched that issue and it is very hard</p> <p>17 to say when something doesn't occur that</p> <p>18 you haven't focused attention to or</p> <p>19 researched.</p> <p>20 But I am not aware of getting</p> <p>21 such information.</p> <p>22 Q. Do you receive marketing</p> <p>23 materials or information from branded drug</p> <p>24 companies?</p> <p>25 MS. COLE: Objection, vague,</p>	<p style="text-align: right;">169</p> <p>1 REISBERG - HIGHLY CONFIDENTIAL</p> <p>2 lack of foundation.</p> <p>3 A. To some extent; I will leave it</p> <p>4 at that, to some extent.</p> <p>5 Q. Doctor, are you aware of any</p> <p>6 studies to support the proposition that it</p> <p>7 is safe to convert patients from the</p> <p>8 extended-release formulation to the</p> <p>9 immediate-release formulation?</p> <p>10 MS. COLE: Objection, vague,</p> <p>11 lack of foundation.</p> <p>12 A. From the extended to the</p> <p>13 immediate?</p> <p>14 Q. Correct.</p> <p>15 A. No.</p> <p>16 Q. In your practice, have you ever</p> <p>17 had a patient specifically ask you about</p> <p>18 the availability of generic drugs?</p> <p>19 MS. COLE: Objection, vague,</p> <p>20 lack of foundation.</p> <p>21 A. I discuss course considerations</p> <p>22 with my patients.</p> <p>23 I'm not sure -- I have no</p> <p>24 specific recollections, but that would be</p> <p>25 within the purview of what I do, in other</p>

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